

**IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

RBH ENERGY, LLC,	§	Case No.: _____
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
PRESTON NEW VISION PARTNERS LP	§	JURY TRIAL DEMANDED
and PACE REALTY CORP.,	§	
	§	
Defendants.	§	

ORIGINAL COMPLAINT FOR COPYRIGHT INFRINGEMENT

Plaintiff RBH Energy, LLC (“RBH”), by counsel, alleges as follows for its Original Complaint for Copyright Infringement against Defendant Preston New Vision Partners LP and Defendant Pace Realty Corp., (collectively, “Defendants”), and requests relief from this Court based on the following:

THE PARTIES

1. Plaintiff RBH is a Texas limited liability company with its principal place of business located at P.O. Box 1843, Colleyville, Texas 76034.
2. Defendant Preston New Vision Partners LP is a Washington State limited partnership with its principal place of business located in Bellevue, Washington. Defendant Preston New Vision Partners LP may be served through its registered agent for service of process, Matthew B. Straight, who is located at 10900 NE 4th Street Suite 1430, Bellevue, WA 98004.
3. Defendant Pace Realty Corp. is a Texas for-profit corporation with its principal place of business located at 6393 LBJ Freeway, Dallas, TX 75240. Defendant Pace Realty Corp.

may be served through its registered agent for service of process, Edward Ducoff, 5429 LBJ Freeway, Suite 500, Dallas, TX 75240.

JURISDICTION AND VENUE

4. This is a suit for copyright infringement under the United States Copyright Act of 1976, 17 U.S.C. § 101, *et seq.*

5. This Court has jurisdiction over Plaintiff's claims for copyright infringement pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b)(2) and 1400(a).

BACKGROUND

7. RBH realleges paragraphs 1 through 6 as if fully set forth herein.

8. RBH is the owner of U.S. Copyright No. VAu 691-775 ("Copyright") titled Brian Harness Photography Collection 2005 Vol. III. A true and correct copy of the copyright is attached hereto as Exhibit A.

9. The named artist of the Copyright is Brian Harness ("Harness"). *See id.*

10. On September 10, 2015, Harness assigned the Copyright to RBH. A true and correct copy of the assignment is attached hereto as Exhibit B at ¶ 2.

11. Harness, a professional photographer, is the sole member of RBH.

12. A copy of this photograph, which was filed as part of the Copyright, is depicted below and also known as merrill-lynch2527:





13. Defendant Preston New Vision Partners LP is a limited partnership that owns The Manhattan Apartment Homes that are located at 18331 Roehampton Dr., Dallas, TX 75252. Defendant acquired The Manhattan Apartment Homes on or about July 17, 2007.

14. Defendant Pace Realty Corp. is the purported apartment management company for The Manhattan Apartment Homes.

15. In promotion of its rental properties, The Manhattan Apartment Homes, Defendants, without permission from Harness or RBH, misappropriated this photograph and included the copyrighted photograph on, at least, its webpage located at <http://www.manhattandallasapartments.com/> and/or the Google + page associated with said website.

16. A true and correct copy of the screenshots of this photo as used by the Defendants was captured by commercial available software known as Image Witness, and attached hereto as Exhibit C is evidence of Defendants' use of RBH's copyrighted photo.

The screenshot shows the Image Witness dashboard. At the top is the 'imagewitness' logo and a 'Logout' link. Below is a navigation bar with links: Dashboard, Your Files, Reports, Infringements, FAQ, and Account Configuration. The main section is titled 'Consolidated Results' and contains a 'Getting Started: Using Reports' header. Below this are buttons for 'Back', 'Select View', and 'Apply Tag'. On the right, there are 'Report Options' (CSV, Print) and a search bar containing 'manhattan'. A table displays search results with columns: Result ID, Location URL, Time (AEST GMT+10), Image Found, Tag, Source Image, and Report Month. One result is shown with ID 6504069, a URL to a Google Plus page, a timestamp of 2015-05-01 11:55:22, and a thumbnail image of a building. Two red arrows point to the 'Location URL' and the 'Image Found' columns. A red horizontal line is drawn across the bottom of the table area.

Result ID	Location URL	Time (AEST GMT+10)	Image Found	Tag	Source Image	Report Month
6504069	https://plus.google.com/+TheManhattanApartmentHomesDallas/about	2015-05-01 11:55:22				May 2015

17. The photograph, noted above, remained on Defendants' webpage until sometime after May 1, 2015.

18. Because Defendants had no permission to use the protected photograph, Defendant is liable for direct copyright infringement.

COUNT 1 – COPYRIGHT INFRINGEMENT

19. RBH realleges paragraphs 1 through 18 as if set fully herein.

20. RBH alleges Defendants are liable for direct copyright infringement pursuant to 17 U.S.C. 501(a).

21. RBH has been damaged by Defendants' actions.

DEMAND FOR JURY TRIAL

Pursuant to FED. R. CIV. P. 38 and the 7th amendment of the U.S. Constitution, a trial by jury is hereby demanded.

DEMAND FOR RELIEF

WHEREFORE, Plaintiff RBH Energy, LLC demands that:

- a. Defendants be found jointly and severally liable for copyright infringement;
- b. Defendants be enjoined from reproducing, administering, displaying, or publishing RBH's copyrighted works;
- c. Defendants be ordered to pay statutory damages pursuant to 17 U.S.C. § 504;
- d. Defendants pay RBH's reasonable attorney's fees and costs of this action, pursuant to 17 U.S.C. § 505;
- e. Defendants pay pre-judgment and post-judgment interest on any damages awarded; and
- f. The Court award Plaintiff all other relief it deems justified.

Further, Plaintiff RBH Energy, LLC also reserves all of its rights to elect alternative remedies, including election of actual damages, as permitted by law.

Dated: January 11, 2017

Respectfully submitted,



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